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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/749,159	12/30/2003	Mark S. Fenelon	3288-000012	7803

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EXAMINER
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AHMAD, NASSER

ART UNIT	PAPER NUMBER
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1772

DATE MAILED: 12/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/749,159

Applicant(s)

FENELON, MARK S.

Examiner

Nasser Ahmad

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 16 September 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-13 and 19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 7-11 and 19 is/are rejected.
- 7) ☒ Claim(s) 5, 6, 12 and 13 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

#### **DETAILED ACTION**

1. The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Misnumbered claim 16 been renumbered as claim 19.

***Rejections Withdrawn***

2. Claims 1-2 rejected under 35 USC 102(e) as being anticipated by Banks made in the last Office Action has been withdrawn in view of the amendment filed on September 16, 2005.

3. Claims 1-2, 4-7, 9 and 11-14 rejected under 35 USC 102(b) as being anticipated by Knowlton has been withdrawn in view of the amendment.

4. Claim 3 rejected under 35 USC 103(a) as being unpatentable over Knowlton in view of Waugh has been withdrawn in view of the amendment.

5. Claim 9 rejected under 35 USC 103(a) as being unpatentable over Knowlton has been withdrawn in view of the amendment.

***Indicated Allowability Withdrawn***

6. Claims 8 and 15, indicated as being allowable, in the last Office Action has been withdrawn in view of the amendment.

***Response to Arguments***

7. Applicant's arguments with respect to claims 1-13 and renumbered claim 19 have been considered but are moot in view of the new ground(s) of rejection.

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1-4, 7-11 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bentley (4971130) in view of Campbell 96865850).

Bentley relates to a partitioning device (20) comprising a presized panel (22) having a sealing side including a perimeter portion (figure-1) and an adhesive trip disposed on said perimeter portion. The main panel (22) is taken to be the sealing wall and the panel (360 is taken to be the working wall to thereby forming a chamber therebetween. The panel (220 includes the opening (28) and a door opening having an opening edge, while the door has a closing edge. As shown in figure-2A, the edges are provided with fastening means such as hook-a-loop fastener elements (60). However, Bentley fails to teach the presence of a package trim attached to the adhesive trim. Campbell discloses a temporary protective shroud (1000 provided with adhesive trim (120) around the perimeter and protected by a package trim or release liner (133) as shown in figure-8. the release is well known to include wax paper. The adhesive is double-sided tape as it adheres to the shroud film and also to the release liner. Therefore, it would have been obvious to one having ordinary skill in the art to utilize Campbell's teaching of using

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release liner in the invention of Bentley with the motivation to protect the adhesive surface.

The phrases "for sealingly closing an opening", "for forcing a mass", etc. are directed to an intended use of the product and hence, they have not been given any patentable weight because they are not considered positive limitation.

### ***Allowable Subject Matter***

10. Claims 5-6 and 12-13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The prior art fails to teach or suggest that each body portion include an opening for forcing mass into the chamber.


### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nasser Ahmad whose telephone number is 571-272-1487. The examiner can normally be reached on 7:30 AM to 5:00 PM, and on alternate Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Nasser Ahmad  
Primary Examiner  
Art Unit 1772  
11/28/05

N. Ahmad.  
November 28, 2005.